IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

WEDNESDAY, THE 17TH JANUARY 2007 / 27TH PAUSHA 1928

WP(C).No. 18892 of 2006(Y)

AGAINST THE ORDER IN IA.1596/2006 IN
OS.31/2001 of MUNSIFF COURT,CHAVAKKAD

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PETITIONER:

PUSHPANGADAN,S/O.THAIVALAPPIL VELU,
THYKKADU AMSOM DESOM,CHAVAKKAD TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.K.RAMACHANDRAN
SMT.R.MEERA
SRI.K.MOHAMMED FAISAL NAHA
SMT.RESHMI RAMKUMAR

RESPONDENTS:

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1. ANNAMMA,S/O.NEYYAN ANTHONY,
THYKKADU AMSOM DESOM, CHAVAKKAD TALUK,
THRISSUR DISTRICT.

2. KOCHAMMINI, DO. DO.

BY ADV. SMT.JAYASREE MANOJ

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 17/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX:

EXT.P1: COPY OF IA 1596/06 DT.25.5.06 WITH AFFIDAVIT THEREON FILED BY PETITIONER BEFORE MUNSIFF COURT, CHAVAKKAD

EXT.P2: COPY OF ORDER DT.26.5.06 IN IA 1596/06 IN OS 31/01 OF MUNSIFF COURT, CHAVAKKAD

//True copy//

SHW TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO. 18892 OF 2006

Dated 17th January 2007

J U D G M E N T

Petitioner is plaintiff and respondents decree holders in O.S.31/01 on the file of Munsiff court, Chavakkad. Petitioner filed I.A.1596/2006, application to remit the report submitted by commissioner. It was dismissed under Ext.P2. It is challenged in this petition filed under Article 227 of Constitution of India.

2. Learned counsel appearing for petitioner was heard.

3. I.A.1596/2006 was not disposed on merits, though it was stated that petition is devoid of any merits. Order shows that petition was dismissed only for the reason that suit has been included in the special list on 10/4/2006. Petition was filed on the re-opening day. If petition was allowed and commissioner was allowed to file a further report, before 23/8/2006, the date on which suit is included in the special list the work could have been over.

Therefore, there is no justification for dismissal of the application, on the ground that suit was included in the special list. Ext.P2 order is quashed. Learned Munsiff is directed to consider the petition on merits and pass appropriate order in accordance with law.

Writ petition is allowed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.